

ASSESSMENT OF OVER-REPRESENTATION OF NATIVE AMERICAN YOUTH IN THE JUVENILE JUSTICE SYSTEM



Prepared for:

**The North Dakota Division of Juvenile Services
North Dakota Juvenile Justice State Advisory Group**

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SECTION I -- INTRODUCTION

In 1988, Congress amended the Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974 to require participating states to address the disproportionate confinement of minority (DMC) youth in secure detention and correctional facilities, jails, and lock-ups. This provision was elevated to a “core requirement” in Congress’s 1992 reauthorization of the JJDP Act. These provisions essentially required participating states to assess the extent to which disproportionate confinement exists, determine why it exists, and to develop and implement a plan for reducing such disproportionate confinement.

Preliminary analysis by the State of North Dakota identified over-representation of minority youth, primarily Native American youth, in all segments of the State’s juvenile justice system, but particularly in the “deep end” of the system at the state youth correctional facility.

Based upon this finding, a more detailed assessment of minority youth in the juvenile justice system was completed by the University of North Dakota in 1995. This study identified locations within the state with the highest incidence of over-representation as well as processes within the case handling of juveniles that appeared to be contributing factors to DMC.

Later in 1995, the North Dakota Juvenile Justice Advisory Group developed an intervention plan that outlined strategies to address DMC from both geographic and process perspectives. In the following years, this plan guided the State Advisory Group’s decisions regarding the funding of DMC-related grant projects. Despite the priority attention given to this issue and dedication of a significant portion of the State’s JJDP grant funds, the most recent DMC Index Matrix data suggests an increase in the over-representation of Native American youth at critical stages in the juvenile justice process over the previous year. While the introduction of the 2000 Census Data into the analysis may offer a partial explanation for the increase, it was determined that further assessment and analysis was warranted.

Accordingly, Juvenile Justice Specialist Terry Traynor, acting on behalf of the North Dakota State Advisory Group, submitted a request for technical assistance to the Office of Juvenile Justice and Delinquency Prevention. Through its contracted technical assistance provider, the Developmental Services Group, OJJDP selected Mark Martin to assist the Advisory Group in updating its examination and assessment of the juvenile justice system in relation to the representation of Native American youth. Specifically, the services of Mr. Martin were engaged to conduct a general assessment of trends, policies and practices that impact the representation of Native American youth in the juvenile justice system in Burleigh County and provide the Advisory Group with recommendations for reducing over-representation. Although the assessment involved a focused look at one jurisdiction with a high incidence of over-representation, it is anticipated that the findings and recommendations may have broader application statewide to communities that are similarly situated.

Methodology

While over-representation of Native American youth is recognized as a statewide issue, this assessment focused upon a sample community where there appears to be significant minority over-representation. The community selected for the study, Burleigh County, is one of the four most populous counties in the state. It is also home to the state's juvenile correctional facility. The 2000 DMC Index Matrix indicated over-representation of Native American youth at all critical stages of the local juvenile justice system, but most significantly at detention and commitment to the state's secure juvenile facility.

Research has found that the process of quantifying disproportionality must examine multiple decision points in juvenile case processing because race/ethnicity may be cancelled out or enhanced at a subsequent point.¹ Accordingly, a functional case flow analysis of the Burleigh County juvenile justice system provided the foundation for this assessment. Multiple interviews were conducted with officials, program representatives, and key decision-makers involved at each stage of the case handling process. The purpose of the interviews was to gain an understanding of the policies, practices, and perceptions of the involved parties at each stage to assess their potential impact on minority confinement. Additionally, pertinent data available at each stage was collected and analyzed to assess trends and use of alternatives.

The assessment was completed in two stages – a three-day on-site visit and follow-up data collection and analysis. A schedule of the site visit is attached as an Appendix. Lisa Jahner and Terry Traynor, SAG program staff, assisted the consultant in the assessment process.

During the course of the assessment the consultant and state program staff interviewed officials or program representatives from the following components of the juvenile justice system:

- Police Youth Bureau
- Juvenile Court Administration
- Probation
- Prosecutor
- Defense Counsel
- Social Services
- State Youth Correctional Center
- Division of Juvenile Services Case Management
- Community Residential and Non-residential Service Providers
- Native American Wrap-around Program
- Native American Youth in State Custody

¹ “Disproportionate Minority Confinement: Lessons Learned from Five States”, Juvenile Justice Bulletin, OJJDP, December, 1998

SECTION II -- DEMOGRAPHIC TRENDS AND YOUTH PROFILE

This section presents demographic trends for the state of North Dakota and Burleigh County and profiles the youth population within these areas. It is important to understand the dynamics of demographics, as these factors impact over-representation. Economic and social stability are factors influencing case decisions at various stages of processing. Accordingly changes in the well-being of a vulnerable population can lead to more intrusive interventions when such youth become involved with the juvenile justice system.

State of North Dakota Population Profile US Census Data (Year 2000 unless otherwise indicated) Table 2-1					
	No. of Persons	Percent		No. of Households	Percent
Gender:			Household Income:		
Male	320,524	49.9%	Below \$10,000	46,651	19.3%
Female	321,676	50.1%	\$10,000-\$25,000	82,524	34.1%
Totals:	642,200	100.0%	\$25,000-\$50,000	81,354	33.6%
Race/Ethnicity:			\$50,000-\$75,000	22,731	9.4%
White	593,181	92.4%	\$75,000-\$100,000	4,718	2.0%
American Indian	31,329	4.9%	Over \$100,000	3,824	1.6%
African American	3,916	0.6%	Totals:	241,802	100.0%
Asian/Pacific Islands	3,836	0.6%			
Other/Two+ races	9,938	1.5%			
Totals:	642,200	100.0%			
			<i>Source: 1990 Census</i>		
Employment:			Economic Condition:		
Employed	287,558	94.7%	All ages in poverty	78,461	12.5%
Unemployed	16,083	5.3%	Under 18 in poverty	27,807	16.8%
Totals:	303,641	100.0%	Under age 5 in poverty	7,479	18.3%
			Median household income	\$31,764	
			<i>Source: 1997 estimates, US Census Bureau</i>		

Table 2-1 shows a profile of the State of North Dakota population based upon most recent available census data. The State's population has slightly more females and is predominately white (92.4%). Native Americans (all ages) account for 4.9% of the population. All other races account for only 2.7% of the population. Discussed in more detail later, the proportion of Native American youth to the total youth population is higher (8.0% vs. 4.9%) than the proportion Native Americans in the overall population. The median household income of North Dakota families is somewhat less than the national average of \$37,005 at \$31,764. While the table shows that, in 1990, 16.8% of children under 18 were living in poverty, the 2001 North Kids Count! Report² notes that 7.37% of children were living in extreme poverty.

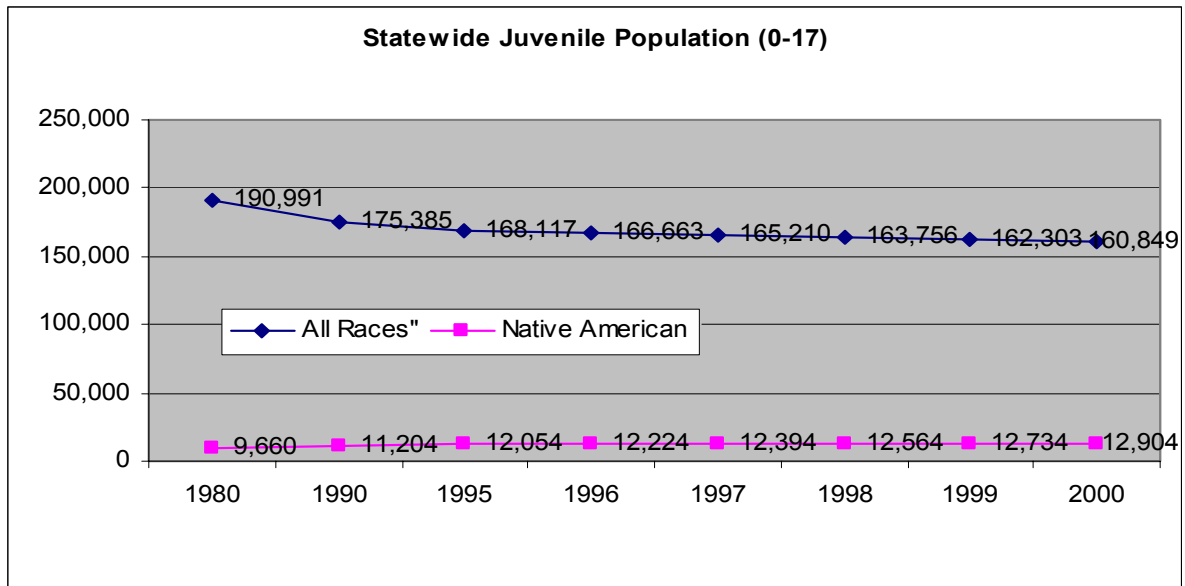
² 2001 Kids Count! In North Dakota

The Native American population (all ages) in Burleigh County is 3.3% according to the 2000 census. The percentage of Native American **youth** compared to the total county youth population is 5.4%. Burleigh County has the highest percentage of Native American youth in its population of the four urban counties in the state. The median household income is \$39,664, significantly higher than the statewide median income. Children in Burleigh County fare slightly better than children statewide from an economic perspective with 12.3% living in poverty compared to 16.8% statewide.

Table 2-2 below compares Burleigh County juveniles with juveniles statewide on several key indicators of well-being. The profile of the County is fairly similar to the state profile. Burleigh County juveniles do have a higher arrest rate for violent crime and a higher percentage of single parent families, but compare favorably in the areas of teen births, school attendance, and percent of children living in poverty.

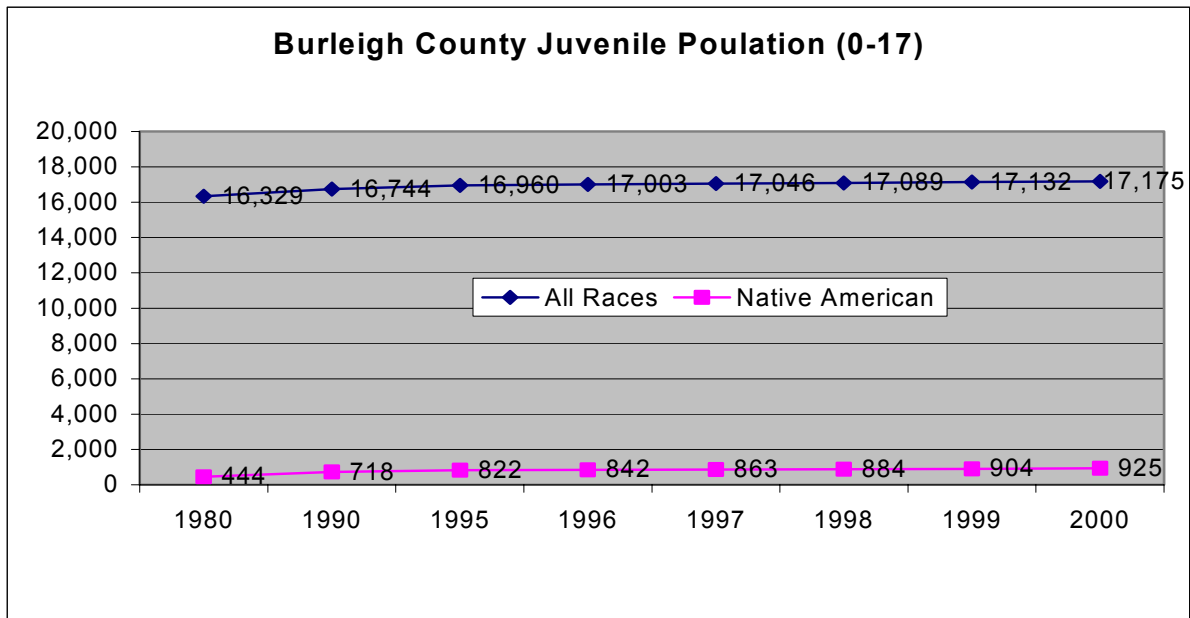
Burleigh County Juveniles Compared to North Dakota Juvenile Population				
Selected Indicators of Well-being				
Table 2-2				
Indicators	Burleigh	Percent	Statewide	Percent
Children living in poverty	2,148	12.30%	27,812	16.80%
Families with children headed by single parent	2,632	15.72%	24,886	14.19%
Death of infants under age one, 1999	6	0.74%	52	0.68%
Low birth weight babies, 1999	51	6.30%	4474	6.21%
Teen births	40	4.94%	603	7.90%
Teens not attending school or working (16-19), 1990	35	0.98%	780	2.11%
Children impacted by domestic violence	451	2.65%	4,213	2.63%
Juvenile violent crime arrest rate (per 100,000)	40.85	N/A	25.26	N/A

Figure 2-1 below graphically displays the growth trend for the total state juvenile population and, specifically, for the Native American juvenile population.



While the overall juvenile population has progressively declined (8.3% from 1990 to 2000), the Native American juvenile population has grown during the same time period (15.2% from 1990 to 2000). Native American youth comprised **8.0%** of the juvenile population in 2000 compared to **6.4%** of the juvenile population in 1990.

Figure 2-2 graphically displays juvenile population trend data for Burleigh County. While the statewide juvenile population declined over the last decade, the juvenile population in Burleigh County grew by 9.7%. **The Native American juvenile population in Burleigh County grew by 28.8% where it now comprises 5.4% of the juvenile population compared to 4.3% in 1990.** When analyzing crime statistics, it is important to be able to relate offense numbers to changes in population levels over the same time period. This is evident when looking at the arrest data for the study period (1995-1999) later in this report. The data shows that the overall number of arrests involving Native American youth is down, despite the growth in the number of Native American youth during the same period. The arrest rate (arrests per 1000 N.A. youth) provides a more accurate comparison of previous years by taking into account population changes over the period.



In interviews, a number of officials expressed belief that the number of Native American youth residing in Burleigh County is undercounted in the Census. They described a segment of the Native American youth population in the community who are transitory – youth who move back and forth between the community and the Reservation and who often stay with extended family members or non-relatives. Native American youth arriving in the community after having lived for much of their lives on Reservation lands were described as being particularly at-risk for involvement in the juvenile justice system due to significantly different community expectations for behavior. Interviewees suggested that delinquent behavior tolerated on the Reservation is much more likely to result in an intervention in the Bismarck community. The transitory nature of this population between the city and their primary Reservation homes and lack of family structure in the community is believed to be a

factor in decision-making regarding the need for detention or other out-of-home placement when a youth is taken into custody for a delinquent act.

Research indicates that undercounting in the circumstances described here may be significant for Native American youth in Burleigh County. The net undercount of children nationally in the 1990 Census was twice the rate for the total population (3.2% vs. 1.6%)³. The net **undercount for Native American youth on reservations in the 1990 Census was 13.8%** of the total Native American youth population.⁴ (The estimated undercount of Native American youth off-reservation was not available.)

Paul O'Hare's report on the undercount of children suggests that children missed getting counted in the Census for two reasons⁵:

- 1) The children live in a household that does not submit a Census form, or
- 2) The children are not included in the questionnaire sent back for their household.

The latter is more apt to occur among children living in large households or **children in temporary living arrangements**. For children living with persons other than their parent, it may not be clear if the home where they are staying on Census day is their "usual place of residence", and therefore they may not be included on the Census form for that household.

The report further indicates that the children missed are **disproportionately minority children** and that **Native American children on Reservations are missed more often than any other racial/ethnic group**. Children living in **distressed neighborhoods** and in **single parent families** also tend to be undercounted.⁶ According to O'Hare, the problem of undercounting worsened between the 1980 and 1990 Census and the prospects for any improvement in the 2000 Census were not viewed as positive.

It appears a number of these characteristics describe the situation in Burleigh County. If true, the **undercount fails to provide a clear picture of the youth demographics** of the area and would **skew any statistics** attempting to compare the arrest, adjudication, or detention of Native American youth in proportion to the overall youth population. Given the low numbers of youth involved, the statistics may be even more profoundly misleading.

SAG program staff and other officials suggested that factors other than residence may also impact the presence of Native American youth in Burleigh County. The Bismarck/Mandan area is a regional trade center, particularly for the Reservations in the region. People residing in rural areas within a 50-100 mile radius come to Bismarck on a regular basis to shop,

³ O'Hare, William P., "The Overlooked Undercount: Children Missed in the Decennial Census", (Annie E. Casey Foundation, Kids County Project, 1999), p. 3

⁴ O'Hare, William P., "The Overlooked Undercount: Children Missed in the Decennial Census", (Annie E. Casey Foundation, Kids County Project, 1999), p. 11

⁵ O'Hare, William P., "The Overlooked Undercount: Children Missed in the Decennial Census", (Annie E. Casey Foundation, Kids County Project, 1999), p. 2

⁶ O'Hare, William P., "The Overlooked Undercount: Children Missed in the Decennial Census", (Annie E. Casey Foundation, Kids County Project, 1999), p. 3

receive services, and for entertainment. Native American families living on the Reservations, in particular, do much of their business in Bismarck and the surrounding area as there are few shopping, service resources, or entertainment options on the Reservations. As a result, officials speculate at any given time the actual number of Native American youth present in Burleigh County is somewhat higher than census figures indicate. These intermittent visitors may well account for some portion of the delinquent activity involving Native Americans in the community.

Key Findings

A review of census data from 1990 through 2000 indicates that the Native American youth population is increasing at the same time the overall youth population for North Dakota is declining. Burleigh County is an exception. Both the Native American and overall youth population have increased over the two decades, with the number of Native American youth increasing at a slightly higher rate. Migration of youth from rural areas to more populous areas such as Burleigh County likely account for some of the population shifts. In 2000, Native American youth represent a higher percentage of the overall youth population than in 1990 both statewide (8.0% vs. 6.4%) and in Burleigh County (5.4% vs. 4.3%).

On selected indicators of well-being Burleigh County fares better than the state overall with regard to the percent of children living in poverty and in school attendance. As one of the more urbanized areas of the state, however, Burleigh County does have a higher violent juvenile crime arrest rate and a higher percentage of single parent families than statewide.

There is some indication that the census count does not present an accurate picture of the actual number of Native American youth present in Burleigh County at any given time. There may well be issues of undercounting of Native American youth in the 2000 census. In addition, the number of Native American youth present in Burleigh County at any given time may be yet higher since the area serves as a regional trade center for surrounding rural areas (including the Reservations). Given these factors, the residency status of Native American youth who become involved in the juvenile justice system in Burleigh County may warrant further study.

Undercounting may, indeed, provide a partial explanation for increases in the disproportionate detention and confinement of Native American using the 2000 Census data.

SECTION III -- JUVENILE JUSTICE SYSTEM ASSESSMENT

Introduction

This section provides an assessment of the factors that impact the representation of Native American youth in the Burleigh County juvenile justice system. Data were collected and analyzed on the characteristics and trends at each stage of case processing within the system. Where appropriate, and when data was available, comparisons were made to state trends.

In addition, interviews were conducted with a wide range of officials and staff representing key agencies and programs within the local juvenile justice system. The purpose of the interviews was to gain a better understanding of the policies and practices of key decision-makers and resources available at critical stages of case processing and how such practices and/or resource gaps may impact Native American youth involved with the system.

The assessment of each stage of case processing is presented in the following format:

- Summary of statutory provisions impacting the processing of youth
- Description of the policies and practices of the agencies involved with the youth;
- Description of services and programs available to key decision-makers;
- Presentation of data showing pertinent trends and characteristics; and a
- Summary of key findings and recommendations from the assessment.

Stage #1 – Arrest

Statutory Provisions

A juvenile may be taken into custody “pursuant to the laws of arrest” for juveniles accused of a law violation or unruly behavior.⁷ Law enforcement officers or other authorized persons, upon taking a child into custody, are required to release the child to a parent, guardian or responsible part when appropriate; to bring the child before the court; or to deliver the child to a detention or shelter care facility.⁸

Burleigh County Arrest Policy and Practices

The Police Youth Bureau (PYB) is a bureau within the Bismarck Police Department. The PYB provides a range of intake, diversion, prevention, and crisis intervention services. (The PYB and its intake and detention screening functions are described in further detail in the next section.) The mission of the PYB is to provide early intervention with youth to prevent their involvement with the Juvenile court system. Juveniles taken into custody by law enforcement in Bismarck are referred to the PYB to determine the need for and type of intervention. With this resource available, PYB officials report that youth coming into contact with law enforcement for delinquent behavior who are not taken into custody are

⁷ Chapter 27-20-13 ND Century Code

⁸ Chapter 27-20-15 ND Century Code

typically issued a citation and also referred to the PYB, even in situations where officers in other communities might simply counsel and release. The citation is viewed as a means to leverage the youth's participation in early intervention services.

The Police youth Bureau was able to provide data on the issuance of citations for the year 2000 only. Accordingly, the consultant was unable to assess trends in the use of citations over the last few years. In 2000, 1,811 citations were issued to juveniles under the age of eighteen. **Table 3-1** lists the top fifteen offenses for which citations were issued. The table breaks out the number and percentage of citations issued to Native American youth. Almost 47% (836/1811) of the citations issued in 2000 were for status offenses, including the top five offenses for which citations were issued. Shoplifting, criminal mischief, and theft were the most frequent delinquent acts represented in the citations. Over 54% (226/417) of the citations issued to Native American youth were for status offenses. The delinquent act Native American youth were most frequently cited for was shoplifting.

Citations Issued in 2000 by Bismarck Police Department Fifteen Most Frequent Offenses Table 3-1			
<i>Offense</i>	<i>All Races</i>	<i>Native American</i>	<i>Percent</i>
Minor Possession/Consumption of Alcohol	251	66	26.3%
Runaway	197	76	38.6%
Shoplifting	186	62	33.3%
Unruly	146	24	16.4%
Curfew	134	35	26.1%
Criminal Mischief	114	5	4.4%
Theft of Property/Theft by Deception	84	14	16.7%
Possession of Drug Paraphernalia	73	3	4.1%
Disorderly Conduct	68	16	23.5%
Possession of Marijuana (felony >1oz)	64	8	12.5%
Smoking/Tobacco Violations	60	6	10.0%
Assault	51	11	21.6%
Breaking into a Motor Vehicle (felony)	48	9	18.8%
Truancy	39	17	43.6%
No Driver's License	32	10	31.3%

Arrest Data

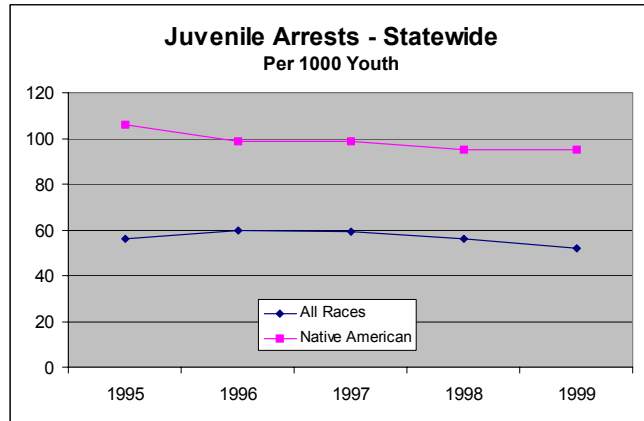
Juvenile arrest data for 1995 through 1999 was reviewed. 2000 arrest data was not available at the time of the assessment.

After remaining fairly static from 1995 through 1998, juvenile arrests statewide declined in 1999. Overall delinquent arrests were about 18% lower in 1999 than in 1995 (5068 vs. 6197). Part I violent offenses declined a more dramatic 61% (106 vs. 41) for the same period. Arrests of Native American youth for delinquent offenses declined almost 14% from 1995 to 1999 (894 vs. 771). Native American youth arrests for Part I violent offenses declined over 79% (29 vs. 6) for this period.

Native American arrests as a percentage of total statewide arrests, increased slightly from 13.6% in 1995 (1280/9432) to 14.4% in 1999 (1213/8429). However, when factoring in

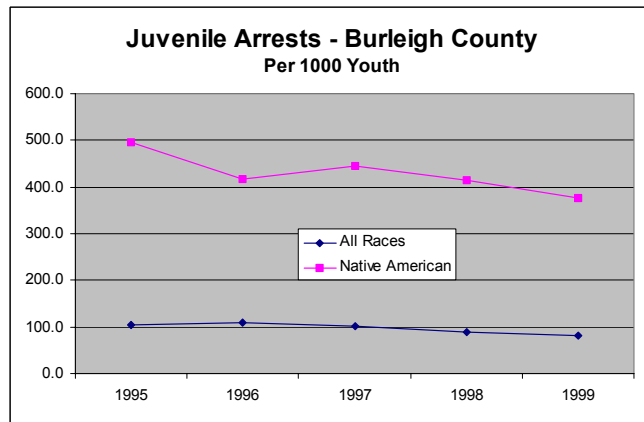
increases in the Native American juvenile population during this time period, the **rate of Native American juvenile arrests actually declined from 106.2 per 1000 to 95.3 per 1000.**

Figure 3-1 compares the juvenile arrest rate of Native American youth with all youth arrests from 1995 through 1999.



Juvenile arrests in **Burleigh County** began to decline in 1998 and continued into 1999. There was more variability in Native American arrests from year to year during this time period, but overall, the numbers of arrests did slightly decline. Most notably, Native American youth arrests for Part I violent offenses decreased from 12 in 1995 to 0 in 1999. While Native American arrests, as a percent of total arrests did increase from 22.9% in 1995 (407/1781) to 24.6% in 1999 (340/181), the arrest rate for Native American youth between the two years significantly decreased from 495.4 per 1000 to 376.0 per 1000.

Figure 3-2 compares the juvenile arrest rate of Native American youth with all youth arrests in Burleigh County from 1995 to 1999.

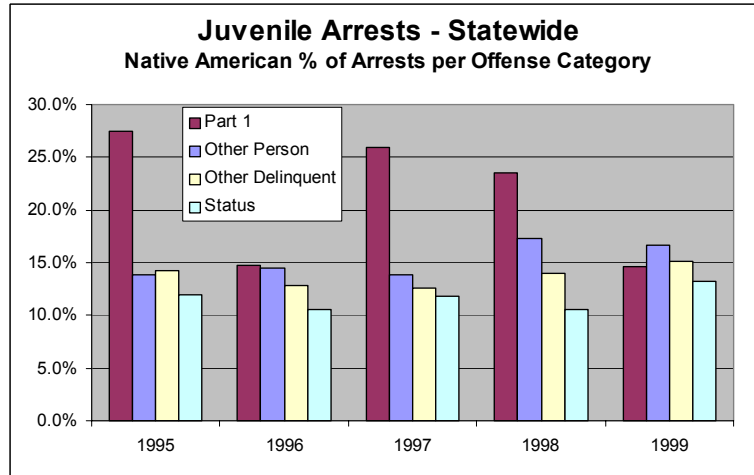


The data revealed that the arrest rate for Native American youth is about **twice** that of the overall youth population statewide (95.3 vs. 51.9 per 1000 in 1999). In Burleigh County, the arrest rate for Native American youth is about **four times** the arrest rate for the overall youth population in the County (376 vs. 80.6 per 1000 in 1999).

Native American youth were involved in approximately 25% of arrests for Violent Part I offenses (most serious level of offenses including: murder, non-negligent manslaughter,

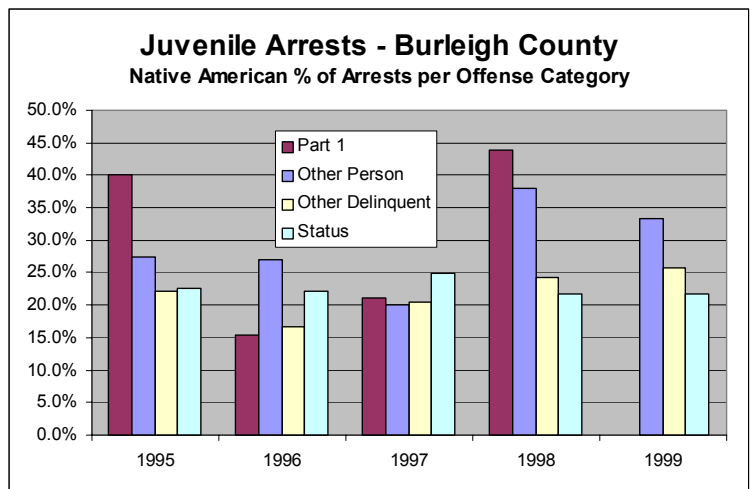
forcible rape, robbery, and aggravated assault) in 1995, 1997, and 1998. In 1996 and 1999, however, Native American youth were involved in less than 15% (10/68 and 6/41 respectively) of Violent Part I arrests. The percentage of arrests of Native American youth for other offenses increased slightly over the five-year period, accounting for an average 10-15% of the arrests for each of the other offense categories.

Figure 3-3 shows the percentage of arrests involving Native American juveniles in each of the major offense categories between 1995-1999.



In Burleigh County, Native American juveniles accounted for 40% or more of the juvenile arrests for Part I offenses in 1995 and 1998, however the percentage dropped to zero in 1999. Native American juveniles accounted for a significantly higher percentage of arrests in most of the offense categories in Burleigh County compared to arrests statewide. The “Other Crimes against Persons” category increased significantly in 1998 and 1999.

Figure 3-4 shows the percentage of arrests involving Native American juveniles in each of the major offense categories between 1995-1999 in Burleigh County.



Key Findings and Recommendations

Citation Data

Almost half of the citations issued by the Bismarck Police Department in 2000 were for status offenses. Minor in Possession or Consumption of Alcohol represented 30% of the status offenses and almost 14% of the all offenses. These percentages were not appreciably different for citations issued to Native American youth. Clearly alcohol use among minors, regardless of race, is a major issue for the community.

Arrest Data

The arrest data shows that juvenile arrests statewide are declining over the past five years. Although the numbers are low, the most significant drop has been for Part I Violent crimes – for both Native American youth and the overall population. Over the five-year period, the arrest rate for Native American youth was about twice that of the overall population. The difference in arrest rates did not vary much over the period.

Arrests in Burleigh County followed a similar pattern, except that the arrest rate for Native American youth was about **four times** that of the overall youth population in Burleigh County. Although the difference trended down over the five-year period it **remained significantly higher than for the state as a whole.**

The over-representation of Native Americans in the arrest data was **most evident in the more serious crimes** – both statewide and in Burleigh County. Clearly, the type of offense for which Native American youth get arrested impact over-representation. Arrests for more serious offenses is more likely to result in detention initially and during case processing, more likely to be formally adjudicated, and more likely to result in a commitment to a secure facility as a disposition.

Policy and Practice

The Bismarck community has made an outstanding commitment to early intervention with troubled youth through its establishment and support of the Police Youth Bureau. The PYB provides a means to identify and intervene early when youth come into contact with law enforcement. However, in order to leverage participation in early intervention services, law enforcement officers make extensive use of citation for behavior that might otherwise warrant just an admonishment in the “street.” *The consultant believes the extent and impact of this practice warrants further study.* In the effort to link troubled youth with early intervention services, issuance of citations where youth might otherwise be simply counseled by the officer and released *could have the unintended consequence of “widening the net”.* While the specific impact on Native American youth is not clear, the net may, indeed, be wider for minority youth having a higher prevalence of risk factors and fewer community assets to draw upon to successfully exit the system once engaged.

Stage #2 – Intake and Detention

Statutory Provisions

A juvenile taken into custody for an alleged law violation or unruly behavior may be detained in a licensed foster home or home approved by the court, a facility operated by a licensed child welfare agency, a detention home or center approved/designated by the court, or other suitable facility designated by the court. Juveniles accused of a law violation may also be temporarily held in an adult jail if no detention home or center is available.⁹

When a juvenile is taken into custody and placed in detention or shelter care, an official designated by the court makes an immediate investigation into the matter to determine if detention or shelter care is warranted. If not, the designated officer must release the child.¹⁰

There is a statutory presumption toward release prior to the petition hearing for juveniles taken into custody. Juveniles must be released unless detention or shelter care is necessary to protect the person or property of others or of the child, because the child may abscond from the jurisdiction of the court, or because the juvenile has no parent or other responsible person to provide supervision.¹¹

When a juvenile is placed in detention or shelter care, a detention hearing before a judge or referee must be held within ninety-six (96) hours.¹² In addition to this statute there is a court rule that requires a hearing within twenty-four hours, excluding non-judicial days for youth placed in secure detention.

Burleigh County Intake Policy and Practice

The PYB fulfills much of the intake function for the community. A lieutenant, two other sworn officers, and seven civilian youth workers staff the Bureau. In addition to intake, the PYB coordinates much of the community diversion programming and provides crisis support services. When a youth is taken into custody by law enforcement, a youth worker is contacted to screen the youth and develop a placement recommendation. If detention is necessary, the youth worker can select among the following options based upon the level of risk presented by the youth:

- Home detention
- Attendant care
- Safe bed (located at the hospital)
- Shelter
- Secure detention (located at the Youth Correctional Center)

⁹ Chapter 27-20-16 ND Century Code

¹⁰ Chapter 27-20-17(1) ND Century Code

¹¹ Chapter 27-20-14 ND Century Code

¹² Chapter 27-20-17(2) ND Century Code

A formal risk-based detention screening instrument is not utilized however the criteria set out in Chapter 27-20-14, ND Century Code and in local court rules governing the use of secure detention are followed.

The youth worker facilitates the flow of information regarding the arrest and initial intake assessment to the juvenile court and may provide follow up services for youth pending case processing decision-making.

The designated Juvenile Court Officer reviews placement decisions and/or authorizes placement pending a detention hearing. The detention hearing is held within 24 hours for youth placed in secure detention or within 96 hours for youth placed in shelter care.

Where a cited youth has been referred to the PYB and detention is not required, the PYB schedules an intake with the youth to determine eligibility for diversion in lieu of formal case processing. The PYB then makes a recommendation to the designated Juvenile Court Officer regarding the handling of the case.

Intake and Detention Data

Table 3-2 shows total detentions statewide and for Burleigh County from 1995 through 2000. Statewide, the number of detentions each year for all races remained fairly constant with the exception of 1997 when the numbers *decreased*. The dip in 1997, according to SAG program staff, is attributed largely to a flood in Grand Forks that incapacitated the community's detention center and attendant care site for over six months. During the same six-year time period, Native American juvenile detentions statewide also stayed fairly constant with the exception of 1997 and 1998 when there was a significant dip in both years.

Other natural phenomena may help explain some of the drop in Native American detentions during this period as well. According to SAG program staff, flooding during 1997 and 1998 blocked access of Native American residents from one of the Reservations to the community serving as their primary trade center. The flooding may well have had an impact on arrests and detentions for delinquent acts attributed to non-resident Native American youth. Simply put, the difficulty in getting to the community reduced the opportunity for non-resident Native American youth to become involved in off-reservation delinquent activity. Detention studies generally show that non-resident youth without ties to the community are more likely to be detained when taken into custody for an alleged delinquent act.

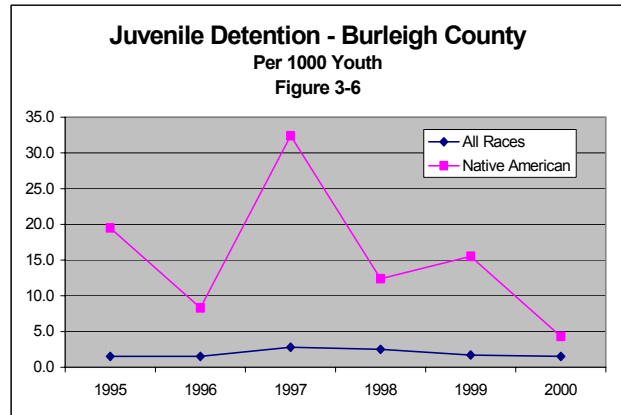
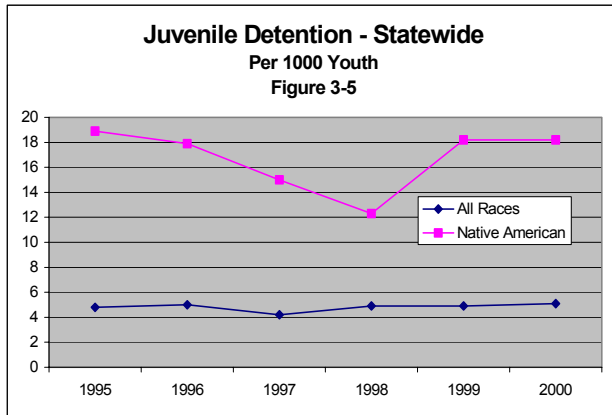
North Dakota has six detention centers with a total of 41 beds statewide. Any change in the use or availability of beds in any of the facilities can have a significant impact on the overall detention statistics. Distances often make it impractical to take youth to alternate facility if a bed isn't available in the facility that normally serves the jurisdiction. As a result, local authorities may make other arrangements for less restrictive supervision of the youth or simply decide not to detain.

In Burleigh County the number of detentions was fairly constant over the six-year period with the exception of 1997 when the number significantly increased. Detention admissions

of Native American juveniles in Burleigh County varied widely over the six-year period from a high of 28 in 1997 to a low of 4 in 2000.

Juvenile Detention Data Table 3-2						
Year	Statewide			Burleigh County		
	All Races	Native American	% of Native American	All Races	Native American	% of Native American
1995	815	228	28.0%	26	16	61.5%
1996	836	219	26.2%	25	7	28.0%
1997	687	186	27.1%	48	28	58.3%
1998	800	154	19.3%	42	11	26.2%
1999	802	232	28.9%	29	14	48.3%
2000	822	235	28.6%	25	4	16.0%

The detention rate for Native American juveniles statewide was about **three times** that of the overall detention rate. The detention rate for Native American juveniles in Burleigh County varied widely over the six-year period from a high of 32.4 per 1000 in 1997 to 4.3 per 1000 in 2000. In all years the rate was significantly higher than the overall county detention rate and the statewide rate. See **Figures 3-5** and **3-6** below.



When breaking down detentions by offense category, there did not seem to be a strong correlation between offense severity and detention. Almost 80% of detentions statewide over the six-year period were for delinquent offenses that were **not** Part I violent offenses or other offenses against persons. These would likely be offenses such as theft, criminal mischief, and shoplifting since these offenses show up as the most frequent in arrest and citation data. According to the data, another 6-10% of detentions were for status offenses. Burleigh County had no detentions for Violent Part I offenses in three of the six-year study period.

Key Findings and Recommendations

The detention rate for Native American youth is significantly higher than the overall detention rate statewide. There appears to have been little improvement between 1995 and 2000. The detention rate in 2000 is about what it was in 1995. The gap between the two

rates appears to be closing in Burleigh County, although it is difficult to draw any conclusions due to the low numbers of youth detained.

Severity of offense does not seem to be a significant factor in the decision to detain. The majority of detentions were for property or drug or alcohol related offenses – or, in about 6-10% of the cases, for status offenses. This does not necessarily suggest that detention was not appropriate in many of these cases. Many times, youth are temporarily detained if he or she is a non-resident, if the youth’s parent cannot be contacted, or if there are other aggravating circumstances. In the absence of a risk-based screening tool, however, detention decision-makers apply subjective judgments in weighing these aggravating circumstances on the detention decision.

The consultant believes **this issue warrants further study to better understand how detention decisions are made and why those decisions appear to result in higher rates of detention for Native American youth.** A review of a sampling of cases involving both Native American and non-Native American youth is recommended. The study should focus on those factors considered in the detention decision and the weight given to those factors.

The consultant also recommends **consideration be given to development and implementation of a risk-based detention tool validated for the North Dakota youth population.** A risk-based tool should serve to identify those youth requiring more restrictive settings based upon some agreed-upon objective risk factors. It should also serve to bring more consistency statewide in the use of detention.

Stage #3 -- Court Intake and Diversion

Statutory Provisions

A juvenile petition may not be filed unless the designated Juvenile Court Officer determines and endorses upon the petition that the filing is in the best interest of the child and the public. Any person, including a law enforcement officer, who has knowledge of the alleged facts, may make a petition.¹³

In lieu of the filing of a petition, the designated Juvenile Court Officer, subject to the Court’s direction, may provide for “informal adjustment” where handling of the case without adjudication is determined to be in the best interest of the child and the public. Where the child and his or her parent or custodian consents, the designated Juvenile Court Officer may impose conditions for the conduct and control of the child. The period of informal adjustment is not to last longer than nine months unless extended for an additional six months by the Court.¹⁴ The juvenile has a right to counsel in “informal adjustment” proceedings.¹⁵

¹³ Chapter 27-20-19 and 20 ND Century Code

¹⁴ Chapter 27-20-10 ND Century Code

¹⁵ Chapter 27-20-26(1) ND Century Code

Burleigh County Court Intake and Diversion Practices

The PYB and Juvenile Court Administration meet weekly to staff cases and make recommendations regarding the filing of a formal petition or to refer youth to diversion or informal adjustment. Diversion options include PYB diversion services, teen court, diversion services for unruly youth, and accountability counseling. Court officials report that there are no written procedures for this process. Generally factors such as number and seriousness of prior offenses, number of previous citations, seriousness of current offense, age, current system involvement, connections to the community, level of parental support, and “street knowledge” of the youth’s behavior are considered when determining a youth’s suitability for diversion or informal adjustment. Evidence of mental health and/or substance abuse problems may also factor into the decision-making.

If approved for diversion or informal adjustment, the youth must admit to the offense as a condition for participation. A diversion plan is established for the youth that may include evaluations or assessments to identify suspected mental health or substance abuse issues. The designated Juvenile Court Officer may also elect to set conditions for behavior and program participation for up to the statutory limit of nine months. If the youth fails to abide by the conditions, the designated Juvenile Court Officer may proceed with the filing of a formal petition.

Juvenile Court Referral Data

Table 3-5 shows the statewide referrals for delinquent and status offenses in 2000 broken down by offense category. The source of this data, the North Dakota Courts 2000 Annual Report¹⁶, did not break out referral data by race.

Statewide Juvenile Court Referrals in 2000 Delinquent and Status Offenses Table 3-5		
<i>Offense Category</i>	<i>Number</i>	<i>Percent</i>
Against Persons	695	5.7%
Against Property	2,873	23.5%
Other Delinquent	5,370	43.9%
Traffic	560	4.6%
Status	2,738	22.3%
TOTAL	12,236	100.0%

The most frequent offense in the Crimes Against Persons category was Assault. In the Crimes Against Property Category the most frequent offenses were Theft, Shoplifting and Criminal Mischief. In the Other Delinquent Offenses category, Minor in Possession of Alcohol was far and away the most frequent offense.

Juvenile court data for Burleigh County for 1995 through 1999 was reviewed. **Table 3-6** shows the average number of referrals by offense type between 1995 and 1999 for all referrals and for referrals involving Native American juveniles.

¹⁶ “North Dakota Courts Annual Report 2000”, North Dakota Supreme court

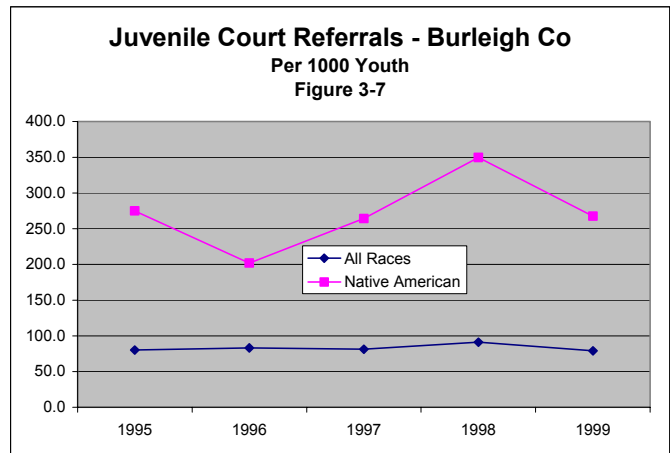
Burleigh County Juvenile Court Referrals (1995-1999)				
Table 3-6				
Offense Category	All Races		Native American	
	Average Annual Referral	Percent of All Referrals	Average Annual Referrals	Percent of N.A. Referrals
Person	101	7.1%	27	11.5%
Property	422	29.8%	88	37.3%
Other Delinquent	365	25.8%	43	18.4%
Traffic	45	3.2%	8	3.4%
Status	482	34.1%	69	29.4%

Burleigh County has a higher percentage of referrals for crimes against persons and crimes against property than the overall statewide percentages for these categories (7.1% vs. 5.6% and 29.8% vs. 23.5% respectively). The percentage of referrals for status offenses is also higher for Burleigh County compared to statewide (34.1% v. 22.3%). (Note: These percentages represent comparisons of the 2000 statewide court referral data to an **average** of court referrals reported for 1995-1999 for Burleigh County. Statewide court referral data for the prior years was not available.)

Table 3-6 shows that referrals of Native American juveniles were significantly higher than for other races for offenses involving a law violation. Status offenses accounted for over one third of all juvenile court referrals over the five-year period.

Consistent with arrest and detention patterns, **Figure 3-7** shows that Native American juveniles were referred to the juvenile court in Burleigh County at a much higher rate than for the referred population overall.

Figure 3-7 compares the referral rate of Native American youth with the overall referral rate from 1995 through 1999.



Key Findings and Recommendations

The juvenile court referral rate for Native American juveniles in Burleigh County is over **three times** higher than the overall referral rate for the period 1995-1999 (267.6 per 1000 Native Americans compared to 79.2 per 1000 overall for 1999). Native American juveniles,

similar to overall referred youth, are referred to juvenile court most frequently for property or status offenses.

As indicated above, the decision to handle a case formally or informally is made administratively by the court administration. In reviewing practices at this stage of the case process, the consultant identified several areas that may warrant further study and possible action.

Court administration officials advised that there are currently no objective criteria and written procedures for the administrative process for determining whether a case should be handled formally or informally. Absent a case level review, the consultant could not draw any conclusions as to the impact the lack of objective criteria and written procedures for determining case handling has on minority over-representation in the jurisdiction. Indeed, the process appears to function very well, most likely due to the experience and good working relationships of those involved. Still, the lack of objective criteria and written procedures increases the potential for inconsistent and/or inequitable intake decisions, particularly if there is turnover among key decision makers. Accordingly, the consultant **recommends development of formal criteria and written policies and procedures to govern the process.** In development of the criteria, attention should be given to the potential impact the criteria will have on the over-representation issue.

According to information provided in interviews, juveniles typically enter into diversion agreements that set conditions for participation without benefit of legal counsel. According to several of the parties interviewed, the admission to the offense (set as a condition of participation in diversion) may be used adversely against the youth in subsequent formal adjudications even if the youth successfully completed the diversion program. The juvenile court advised that admissions by youth are not used at the adjudication stage, but may be considered at disposition. The consultant has some concerns about this practice, if indeed it occurs. It could have a significant impact on youth from lower income families who cannot afford legal counsel and youth from other cultures who have a less sophisticated understanding of the state's juvenile court process. It is also inconsistent with statutes which indicate juveniles have a right to counsel in "informal adjustment" proceedings. To address this issue the consultant offers the following recommendations:

- **Affirm the youth's right to consult with an attorney prior to establishment of a diversion or informal adjustment agreement.** Review the jurisdiction's contract for juvenile indigent defense to assure that provisions are made for access to counsel by indigent youth at this stage of case processing.
- **Establish or contract for a Native American juvenile court liaison position.** A Native American juvenile court liaison would be available to Native American youth and their families through all stages of the case process from arrest through disposition. The liaison would be available to help youth and their families understand and navigate through the juvenile court process, facilitate access to services, and assure that culturally appropriate approaches are understood and considered during each stage of the case process. The liaison would also work with

court officials and service providers to promote increased understanding of the culture and unique needs of Native American youth and their families.

Stage #4 – Case Filing and Adjudication

Statutory Provisions

The statute sets out specific time frames for conduct of hearings to facilitate the prompt adjudication of cases. Once a petition has been filed, the court set the time of the adjudication hearing. Generally, the hearing must be held within thirty days of the petition filing. If the juvenile is in detention, however, the hearing must be held within fourteen (14) days of the time the juvenile was taken into custody. If the juvenile is placed in foster care, the hearing must be held within sixty (60) days of the initial shelter care hearing.¹⁷ If the hearing is not held within these time frames (or within any authorized extension period), the petition must be dismissed.¹⁸

The state's attorney upon the request of the court represents the state in the proceedings and presents the evidence in support of the allegations.¹⁹ The juvenile has the right to counsel in these and other post-petition proceedings.²⁰

If the court makes a finding of proof beyond a reasonable doubt that the juvenile committed the acts alleged as is deemed delinquent or unruly, it may proceed immediately (in the same hearing) or at a postponed hearing to hear evidence as to whether the child is in need of treatment or rehabilitation. If the court finds from clear and convincing evidence that the juvenile is in need of treatment and rehabilitation, the court can proceed immediately (in the same hearing) or at a postponed hearing to disposition.²¹

After adjudication but before evidence is heard regarding the juvenile's need for treatment and rehabilitation, the court may direct that a social study and report (pre-dispositional evaluation) be made and presented to the court.²² When post adjudication hearings are continued or postponed, the court may order detention or supervised release of the juvenile. The statute provides that docketing priority be given to cases where the juvenile is detained or removed from his or her home pending disposition.²³

Statute provides for the transfer of cases alleging delinquency to adult court under certain circumstances after a petition has been filed. The statute includes provisions for mandatory transfer of cases involving juveniles fourteen years of age or old where the alleged delinquent act involves murder, attempted murder, gross sexual imposition, attempted gross sexual imposition, and certain drug offenses.²⁴

¹⁷ Chapter 27-20-22 ND Century Code

¹⁸ Chapter 27-20-24(2) ND Century Code

¹⁹ Chapter 27-20-24(3) ND Century Code

²⁰ Chapter 27-20-26(1) ND Century Code

²¹ Chapter 27-20-29 ND Century Code

²² Chapter 27-20-28 ND Century Code

²³ Chapter 27-20-29(5) ND Century Code

²⁴ Chapter 27-20-34 ND Century Code

Burleigh County Adjudication Policy and Practice

Brandi Sasse, a prosecutor with the Burleigh County District Attorney's office, provided an overview of the case filing and adjudication process in Burleigh County.

The Juvenile court administration decides whether a case is to be handled formally or informally. If the court administration determines the case should be handled formally, the allegations are sent to the prosecutor's office.

The State's attorney reviews the evidence to determine if the allegations can be supported. The state's attorney may amend the petition based upon the evidence available to establish a provable case.

If a youth requires secure detention pending case processing, the initial authorization is made by the court administration. If securely detained, a detention hearing is held within twenty-four hours. At that time the court may continue the detention or release the juvenile with or without conditions. According to Ms. Sasse, defense counsel is usually present to represent the juvenile at the detention hearing, however this was disputed by defense counsel who was separately interviewed. For youth in shelter, a detention hearing is required within ninety-six hours.

The juvenile court petition must be filed and a hearing held within fourteen days if the juvenile is in detention. Ms. Sasse reported that approximately **75% of the time juveniles will admit to the allegations and the arraignment, adjudication, and disposition will be handled in a single hearing.** She advised that the court orders few predisposition investigations or evaluations. When evaluations are ordered, they are generally to seek additional information regarding substance abuse or mental health issues. According to Youth Correctional Center data, the YCC provided ten (10) evaluations for the Burleigh County Juvenile Court in 2000, two of those involved Native American juveniles.

Ms. Sasse advised that she had worked for the prosecutor's office for about six months at the time of the interview so was unable to comment on any trends regarding the involvement of Native American juveniles in the county juvenile justice system. Her perception was that there is an increase in gang-related crime among Native American juveniles. With regard to the types of interventions that appear to be more successful, she indicated that youth receiving drug and alcohol treatment and who had a more stable family environment seemed to fare better than those who don't. Ms. Sasse could not identify any specific gaps in services for Native American juveniles from her perspective.

Anne Summers, a contracted public defender, also provided input regarding the adjudication process. She expressed concern over the lack of adequate legal representation of juveniles in the County. In her view, the compensation for handling juvenile cases is so low that private firms cannot afford to contract for public defender work and that those who do, cannot afford to commit the time necessary to provide the level of representation juveniles should be provided. With adequate time legal counsel could provide juveniles and their families with a

better understanding of the consequences of decisions made at each stage of the case process and would have someone who could advocate for their best interests throughout the process.

Ms. Summers also expressed concern over the impact of recent statutory changes that included gross sexual imposition among the offenses for which there is mandatory transfer to adult court. She believes this law will have an unintended impact of criminalizing teenage sexual behavior.

With regard to Native American juveniles involved with the juvenile justice system, Ms. Summers believes there are not enough service providers in the community who are culturally competent and who provide culturally appropriate services. She believes that the court officials and others involved in handling juvenile court cases could also benefit from additional training in cultural competency to improve their skills in communicating and working with Native American youth.

Key Findings and Recommendations

Concerns about adequacy of indigent defense were raised. The scope of this assessment did not provide for a case level review of a sampling of cases to draw any conclusions regarding the concerns that were expressed. The recommendations outlined in the previous section, if followed, could help address this issue. The issue of compensation, however, must be addressed with the local governing board. A comparison study of compensation levels for indigent defense in other similar-sized jurisdictions could provide the basis for discussion.

Stage #5 – Disposition

Statutory Provisions

Under statute, the Juvenile Court has a number of options in shaping a dispositional order for a delinquent child so long as it is “best suited to the child’s treatment, rehabilitation and welfare.” Options include:

- Any order authorized for disposition of a deprived child;
- Probation under conditions specified by the court and under the supervision of a probation officer or county social services;
- Payment of fine (for certain delinquent acts);
- Placement in an institution or facility for delinquent children that is under the direction of the court or local public authority;
- Ordering money restitution to the victim or community service;
- Subjecting the juvenile to periodic drug and alcohol testing;
- Suspension of driving privileges (under specified circumstances)
- Commitment to the Division of Juvenile Services²⁵

The same dispositional options are available to the Juvenile Court for unruly juveniles except that they may not be initially committed to a secure facility. If, in a subsequent hearing

²⁵ Chapter 27-20-31 ND Century Code

however, the Court finds the juvenile not amenable to the treatment and rehabilitation ordered under the previous disposition, commitment to a secure facility is an option.²⁶

Delinquent or unruly juveniles may be committed to the Division of Juvenile Services for a maximum of two years, excluding any time the juvenile is on parole from an institution. Prior to the expiration date, the Juvenile Court may extend the order's duration for additional two-year periods. The commitment order may specify an initial secure placement, however the Division has the authority to manage the youth within its array of services while in its custody. The Division also has the authority to discharge the juvenile prior to the expiration date of the commitment period.²⁷

The statute also obligates the parents of delinquent and unruly juveniles to participate in treatment as ordered by the Juvenile Court.²⁸ Parents can also be required to make restitution to victims in their child's behalf in an amount not exceeding \$5,000.²⁹

Burleigh County Disposition Data

For the years 1995-1999, approximately **75-80% of cases** handled by the Burleigh County Juvenile Court were **disposed of by informal means** through diversion or informal adjustment. Formal probation as a disposition was used sparingly. In 1998 and 1999, probation was the disposition in less than .5% of the cases handled by the court. About 3.5-5.0% of the dispositions were a commitment to DJS custody.

Over the same time period, cases involving Native American juveniles were slightly less likely to be handled by informal means (about 70% in 1998 and 1999; lower in previous years). The percentage of cases involving Native American juveniles with commitment to DJS as a disposition dropped from 8.8% in 1995 to 3.7% in 1999.

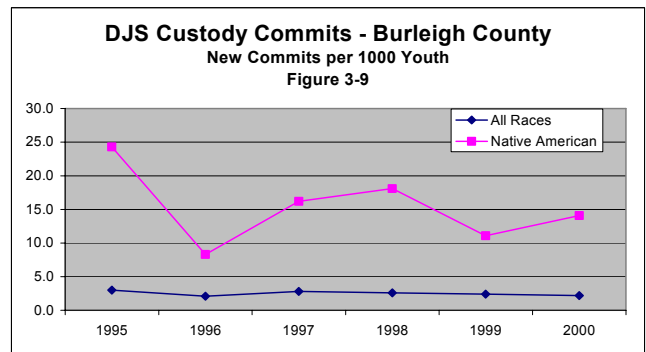
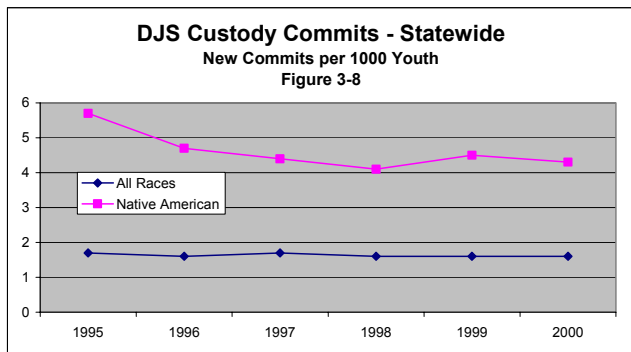


Figure 3-9 shows that Burleigh County has a somewhat higher commitment rate of juveniles to DJS. The commitment rate of Native American juveniles to DJS as a disposition in Burleigh County is substantially higher than the overall commitment rate, ranging from a

²⁶ Chapter 27-20-32 ND Century Code
²⁷ Chapter 27-20-31(5) and 27-20-36(2) ND Century Code
²⁸ Chapter 27-20-27.1 ND Century Code
²⁹ Chapter 27-20-31.2 ND Century Code

high of 24.3 per 1000 in 1995 to a low of 8.3 per 1000 in 1996. The commitment rate of Native American juveniles in 2000 was **seven times** that of the overall commitment rate.

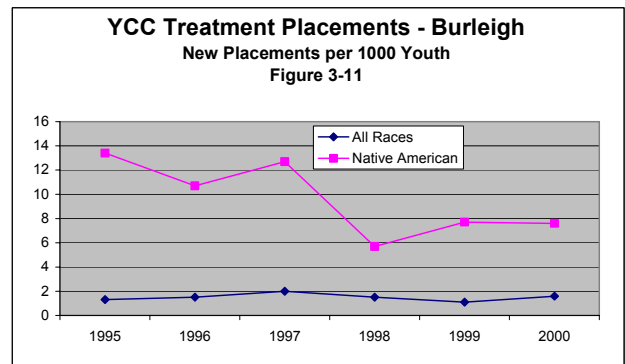
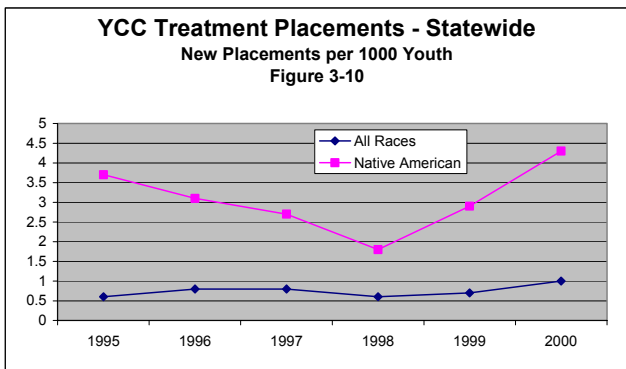
The recommitment rate of juveniles to DJS as a disposition statewide and in Burleigh County were similar over the assessment period ranging from .2-.3 commitments per 1000. The recommitment rates for Native American juveniles were slightly higher statewide (ranging from .2-.8 per 1000) and particularly in Burleigh County (ranging from 0-3.3 per 1000).

Table 3-7 shows the average length of commitment of youth by race to DJS over the past seven years. Over the seven year period, the average length of commitment for Native American youth and African American youth was longer than the overall average commitment. Native American youth stayed in DJS custody, on the average, **2 months longer** than the overall population of committed youth.

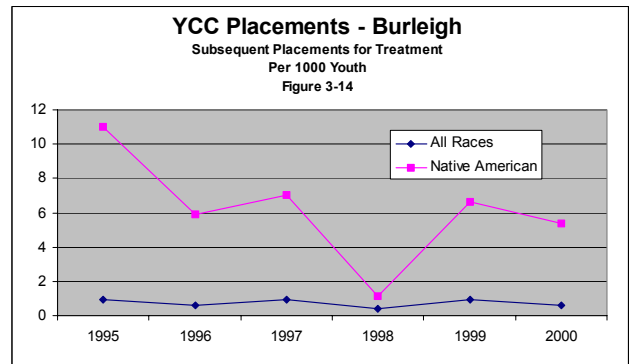
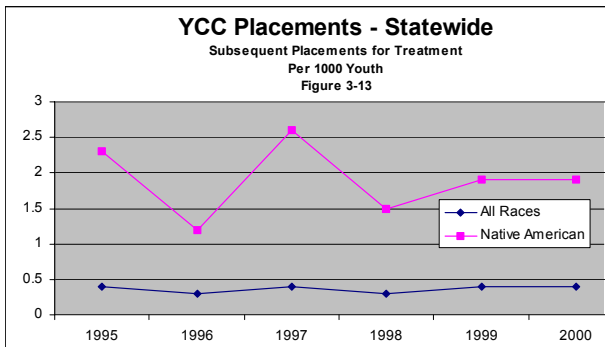
Length of Commitment to DJS Custody by Race Average Number of Months Table 3-7						
Year	Native American	Asian	African American	Other	White	Yearly Average
1993	26.4	11.0	10.4	15.2	19.3	20.3
1994	22.6	20.4	20.9	26.6	20.7	21.1
1995	23.0	30.0	22.7	15.3	21.1	21.6
1996	18.1	26.9	33.4	18.2	17.7	18.4
1997	22.0	16.0	22.8	20.5	17.5	18.6
1998	17.5		13.0	12.1	16.3	16.3
1999	14.1	14.0	7.4	17.5	13.3	13.6
7-Year Average	20.7	18.7	21.2	17.4	18.2	18.7

The Youth Correctional Center (YCC), the state’s secure youth facility, is operated by DJS . Once youth are in DJS custody, case managers may place youth at the YCC for evaluation timeout, or treatment.

After declining for three years, the rate of new *Treatment* placements statewide involving Native American juveniles at YCC rose sharply from 1998-2000 (from a low of 1.8 per 1000 in 1998 to 4.3 per 1000 in 2000). In Burleigh County, the rate of new Treatment placements involving Native American juveniles at YCC dropped significantly between 1997 and 1998, then trended upward slightly over the next two years. See **Figures 3-10** and **3-11** below:

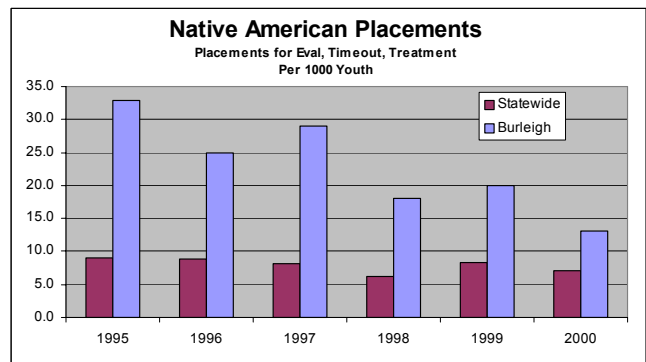


Placement rates statewide and in Burleigh County involving Native American youth for new *Evaluations* and *Timeouts* at the YCC have generally trended downward over the assessment period 1995-2000, however the placement rates for Native American juveniles continue to be significantly higher than the placement rate overall. The placement rate for Native American juveniles for subsequent Treatment placement also trended downward, albeit more significantly in Burleigh County than statewide. See Figures 3-12 and 3-13 below:



As Figure 3-14 shows the Native American placement rate from Burleigh County at the YCC is significantly higher than the statewide rate, but has been trending down.

Figure 3-14 compares the placement rate of Native American juveniles from Burleigh County with their placement rate statewide.



Key Findings and Recommendations

The data indicates that cases involving Native American youth are handled informally at a rate fairly close to that of the overall population. This appears to be the point in case processing with the lowest level of over-representation (about 70% vs. 75-80% for the overall population). Of those youth handled through formal adjudication, however, the commitment rate of Native American youth to DJS is significantly higher than for the population overall (Seven times higher in 2000). Conversely, Native American youth are under-represented when formal probation is the disposition. Essentially, Native American youth have about the same opportunity as other youth to have their cases handled informally. However, once a case gets to formal adjudication and disposition, the data indicates that Native American youth tend to get pushed deeper into the system (commitment to state

custody). Once in DJS custody, Native American youth tend to remain in custody longer (20.7 months vs. 18.7 months for the overall DJS population).

While the court may secure a mental health evaluation and social assessment of a youth from DJS or other sources, an objective risk and needs assessment process is not available to aid the court in determining the appropriate level of custody and supervision required or the type and intensity of services needed. The lack of objective risk and needs assessment tools can lead to inconsistency in decision-making and a mismatch of youth with the level of custody required for his or her best interest and the best interest of the community. The consultant **recommends consideration be given to development and implementation of risk and needs assessment tools that can be used prior to disposition to aid the court in its decision-making.** The tools can assist the court in determining the restrictiveness of the setting required, the intensity of supervision and amount of structure needed to redirect the youth, and the type and intensity of services needed.

Stage #6 – Sanctions and Services

Probation

The South Central Judicial District probation office provides probation services for the Burleigh County Juvenile Court. The probation office provides face-to-face and collateral contacts with juveniles under probation supervision. The court sets out the conditions of probation that governs the juvenile's conduct and directs participation in specified activities. Conditions typically include such requirements as:

- Submission to random drug and alcohol testing
- Participation in recommended substance abuse and/or mental health treatment
- Payment of restitution
- Completion of community service
- Completion of Keys to Innervations program
- Tour of adult correctional facilities
- Suspension of driving privileges

The probation office did not identify any culturally specific services designed to address the unique needs of Native American youth. Probation and court administration staff did identify several factors that they believe may contribute to delinquency among Native American youth in the community:

- Development of housing projects that have increased the number and concentration of Native American youth in certain neighborhoods in the community;
- High levels of poverty and alcoholism within the Native American community;
- Mobility of youth – many Native American youth move back and forth between a Reservation home and the community – interrupting school and limiting the opportunities for bonding and attachment to the community;
- Lower school achievement and poor school attendance;
- Influence of gangs;

- Lack of support from parents – absent fathers; and
- Lack of collaboration with tribal courts and services on the Reservations.

Social Services

Burleigh County Social Services provides foster care, case management and family focused services for juveniles placed in its temporary legal custody by the Juvenile Court. The Social Services Department primarily serves abused, deprived and unruly youth, but also periodically receives a delinquent youth into its custody. Approximately 40% of youth in foster care are Native American.

Division of Juvenile Services

The consultant interviewed YCC staff and the DJS Regional Manager and caseworkers from the Bismarck regional office. The following information was derived from these interviews.

The Division, through its eight regional offices, provides a variety of community-based services and placement options for juveniles. The regional offices are staffed by Juvenile Corrections Specialists who provide assessment, case management services, and community-based correctional services to juveniles and their families. The Juvenile Specialists use several assessment and case planning tools to determine appropriate placement and treatment. These include the Treatment and Rehabilitation Plan, Classification and Risk Assessment, and Strategies for Juvenile Supervision (SJS).

Working in cooperation with the Juvenile Courts, Department of Human Services, North Dakota Association of Counties, the Department of Public Instruction, and private service providers, the Division maintains a continuum of care that provides an array of placement options and programs for adjudicated juveniles that includes such services as:

- Intensive In-home Family Services
- Tracking
- Day Treatment
- Vocational training
- Residential Treatment
- Therapeutic and Family Foster Care
- Residential child care
- In-patient services
- Job Corps

The Division is also responsible for the state's secure juvenile correctional institution, the Youth Correctional Center (YCC). The YCC is a coed facility that provides the following services:

- Detention (for youth requiring a secure setting pending case processing)
- Youth Evaluation Services (social assessment and diagnostic testing for pre and post dispositional evaluations)

- Time out (short-term remediation for youth in its custody who are failing in community placements)
- Long-term treatment – average length of stay is 8 months

The YCC does not have a specific treatment track for Native American youth but have attempted to attend to their spiritual and cultural needs though such efforts as:

- Construction and maintenance of a sweat lodge on campus;
- Annual pow wow;
- Culturally-based art programs;
- Purchase of subscriptions to Native American magazines;
- Support of a drum group; and
- Facilitate opportunities for family involvement through phone contact, on-campus visitation, and off-campus visitation at the Reservations.

At the time of the interview, there were two Native American staff out of the 91 facility FTE's.

The YCC does provide an on-campus educational and vocational program, specialized drug and alcohol treatment, and a cognitive skills development curriculum (EQUIP). In visiting with the consultant while on-campus, two Native American youth shared that the EQUIP curriculum offered some of the best help they received while in residence there. They believe it will help them make better choices in the future and also help them resist falling back into behaviors that got them into trouble in the first place.

The Division staff discussed some of the challenges they face in providing effective services for Native American juveniles in their custody. While many of the juveniles on their caseloads face most of these issues to varying degrees, they described them as being particularly acute for Native youth:

- Use of inhalants
- Family dysfunction
- Grief and identity issues
- Instability in living arrangement
- Lack of support from family and the community
- Unrealistic expectations of welfare reform
- Sense of prejudice by the community against Native kids
- High incidence of alcohol abuse among youth and their families
- High incidence of mental health issues (depression, mood disorders)
- Impact of Fetal Alcohol Effects and Fetal Alcohol Syndrome on ability to function
- Loss of a sense of culture

Staff also expressed frustration with the difficulties of communicating and working with their counterparts in the tribal courts. Differing expectations, staff turnover, and lack of resources on the Reservations make it difficult to establish ongoing working relationships.

Staff offered several suggestions that they believe could improve the system's effectiveness in working with Native American youth.

- Offer training to juvenile justice professional staff by Native Americans on cultural issues
- Provide opportunities for staff to learn more about and use principles of wraparound care
- Encourage staff to listen to families to learn what they need – don't presume
- Assure that staff consistently follow policies and procedures handling cases

Community Service Providers

The consultant visited several community service providers to learn about existing programs and get input from staff regarding services for Native American youth involved with the juvenile justice system.

Charles Hall Youth Services

Charles Hall Youth Services primarily provides shelter and group home services to delinquent and at-risk youth. Staff distinguished their program from other service providers in their willingness to take more difficult youth. The program primarily serves youth in transition – either entering the system awaiting disposition or transitioning back to the community from a more restrictive placement.

Staff estimated that 45% of their clientele were Native American youth. They reported that approximately 90% were substance abusers (with 20% reporting meth use). The youth were characterized as having multiple placement histories with placement in many cases made due to truancy. They noted higher recidivism among Native American youth primarily due to truancy, chemical dependency problems, and lack of parental supervision.

Staff noted that many Native American youth come to them with little or no sense of hope for the future. Many of the youth have been thrust into parental roles where they have been made responsible for siblings and sometimes their parents. One of their biggest challenges under these circumstances is teaching the kids “how to be kids” – literally teaching them how to play.

Despite many of these challenges, the Charles Hall staff noted many strengths among Native American youth and their culture that provide the basis for treatment and rehabilitation:

- Resiliency – an ability to bounce back no matter what gets them down
- Extended family – while many practitioners and providers viewed extended family and clan relationships as an unstable living situation, the Charles Hall staff suggested this could be a valuable resource where a significant adult from the extended family have the primarily relationship with the youth.
- The value placed upon relationship building in the Native American culture
- The value placed upon hospitality within the culture

- The artistic creativeness and talent displayed by many Native American youth
- The grounding in the here and now – many Native American youth are very centered in the present.

Staff suggested that services should be designed to build on these strengths rather than focusing on deficits.

Casey Family Project

The Casey Family Project is a program funded, in part, through the Casey Family Foundation. According to staff approximately 40% of the youth served in Burleigh County by the program are Native American. As a provider for DJS, the Casey Family Project provides specialized family foster care for adjudicated youth. Primarily the program provides long term foster care and therapeutic foster care for DJS youth as part of their aftercare plan.

The youth serviced by the program were identified as having the following characteristics:

- Adjudicated delinquent
- Transitioning back from residential treatment or YCC
- Average age range of 14-17
- Primarily male
- Most have a DSM-IV diagnosis (conduct disorder, ADHD, Depression, Chemical Dependency)

Staff described Native American youth they serve as generally coming from a more chaotic home situation, have fewer family resources to draw upon, are harder to reunify, have more intense chemical dependency issues, and come into the program having been on their own more than other youth. They reported their success rate with Native American youth to be somewhat lower than with other youth. The staff indicated the success rate could be improved if they could “catch the kids at a younger age” and if employment training were further emphasized to provide employable skills.

Staff described the Native American youth they serve as having the following strengths:

- Greater spirituality
- Artistic
- Extended family could provide additional family resources
- Grandmother in family is a strong influence

In reflecting upon the interaction of the juvenile justice system with Native American youth, staff speculated that these youth have a lack of understanding of the process and the consequences of decisions made at key stages. They indicated this process is generally not we-explained to the youth or their families as they move through the system. The staff’s perception was that Native American youth tend to be moved to formal intervention quicker than non-Native American youth – that few informal interventions are tried first. They

speculated that lack of a stable family situation in the community may play a role decisions to formally intervene.

Sacred Child Project

The Sacred Child Project is a SAMSHA funded project headquartered in Bismarck whose objective is to develop integrated systems of care for Native American youth on the Reservations with Serious Emotional Disturbances (SED). Many of the referrals to this program come from the Tribal Courts, police, parents, and others and involve youth who have committed delinquent acts or are unruly. The project incorporates traditional cultural approaches in a wraparound process. After an assessment of the situation and child and Family team is formed to develop and monitor a wraparound plan. In keeping with the intent of the wraparound process, the plans rely heavily on informal supports in the youth's environment that can have a positive impact upon the youth's situation. Parent advocates are assigned to assist the youth's parents in dealing with the youth's behavior and interaction with other social systems. The youth is typically assigned a young adult mentor who can serve as a positive cultural role model. Traditional spiritual and cultural interventions are incorporated into the wrap around plan.

While this project currently focuses on Native American youth on the Reservations, the use of traditional interventions within a wraparound approach may have some application in working with Native American youth within the local juvenile justice system.

Key Findings and Recommendations

The local juvenile justice system offers an array of sanctions and services for youth who become involved with the system. Based upon a review of services and discussions with practitioners and service providers, the consultant concludes that culturally specific interventions and services for Native American youth are limited. There are some cost-effective strategies that may improve the situation. These include:

- Actively recruiting qualified Native Americans to be probation officers, caseworkers, institutional workers, foster care providers, trackers, and mentors.
- Tailoring services to address the unique needs of Native American youth and their families. The Sacred Child Project is an example of a wraparound approach that blends traditional healing practices with contemporary interventions. The use of elders and Native American role models in the community to serve as mentors is another example.
- Increasing service resources for Probation to provide an alternative to state custody for Native American youth requiring significant structure and treatment, but not secure confinement.

SECTION IV – ASSESSMENT SUMMARY AND RECOMMENDATIONS

Background

An assessment of the North Dakota juvenile justice system in 1995 identified over-representation of Native American youth in all segments of the juvenile justice system, but particularly in the “deep end” of the system. Despite priority attention given to this issue in the ensuing years, the 2000 DMC Matrix Index indicated an increase in the over-representation of Native American youth over the 1999 data in both detention and commitments to secure correctional facilities.

Study Process

Juvenile Justice Specialist Terry Traynor, acting on behalf of the North Dakota State Advisory Group, submitted a request for technical assistance to the Office of Juvenile Justice and Delinquency Prevention. Through its contracted technical assistance provider the Developmental Services Group, OJJDP selected Mark Martin of MJ Martin, Inc. to assist the Advisory Group in updating its examination and assessment of the juvenile justice system in relation to the representation of Native American youth.

The purpose of the technical assistance was to conduct a general assessment of trends, policies and practices that impact the representation of Native American youth in the juvenile justice system in Burleigh County and provide and provide the Advisory Group with recommendations for reducing over-representation in that community and, to the extent there is broader application, statewide.

A functional case flow analysis of the Burleigh County juvenile justice system provided the foundation for this assessment. Multiple interviews were conducted with officials, program representatives, and key decision-makers involved at each stage of the case handling process. The purpose of the interviews was to gain an understanding of the policies, practices, and perceptions of the involved parties at each stage to assess their potential impact on minority confinement. Pertinent data available at each stage was then collected and analyzed to assess trends and use of alternatives.

The assessment was completed in two stages – a three-day on-site visit and follow-up data collection and analysis. Lisa Jahner and Terry Traynor, SAG program staff, assisted the consultant in the assessment.

Key Findings

- While the overall North Dakota youth population declined 8.3% between 1990 and 2000, the Native American youth population increased 15.2%. In Burleigh County the overall youth population grew by 2.6% during the decade, but the Native American youth population in the county grew by 28.8%.
- There is some speculation, despite this growth, that Native American youth may be undercounted in Burleigh County in the 2000 Census. Research on undercounting of

minorities indicates that youth in temporary living situations often get overlooked. Many Native American youth in Burleigh County are described as transitory, often moving for periods of time between a reservation home and the city.

- Officials further believe the Census count understates the presence of Native American youth in the community. Bismarck is a regional trade center for the surrounding rural area and most particularly the reservations. At any given time there are a number of non-resident Native American youth in the community for shopping, work, services, or entertainment. Some of these youth become involved in delinquent activity, yet they are not counted in the total Native American youth population for purposes of assessing disproportionate minority confinement.
- The undercounting, to the extent it can be determined, provides a partial explanation for the increases in the disproportionate confinement of Native American youth in the 2000 DMC Matrix Index Data where the 2000 Census data was used.
- Juvenile arrests statewide are trending down. Arrests for delinquent offenses are down over 18% between 1995-1999. Burleigh County juvenile arrests declined over 19%. Native American youth arrests for delinquent offenses also declined to a lesser degree during the same time period (5.1% statewide and 13.9% in Burleigh County).
- Violent crime is low. Arrests for Part I violent offenses statewide declined 61% over the five-year period. Native American youth arrests for Part I Violent offenses declined 79% over the same timer period. Part I violent offenses accounted for less than 1% of all arrests statewide in 1999.
- Over-representation of Native American youth at arrest is most evident in the more serious crimes. Native American youth accounted for almost 30% of offenses against persons in Burleigh County over the five-year study period. Arrests for more serious offenses can have a significant impact at all stages of case processing since youth accused of a serious offense are more likely to be detained initially, formally adjudicated, and committed to a secure setting at disposition.
- The Bismarck community has made an outstanding commitment to early intervention with troubled youth through the establishment of the Police Youth Bureau and establishment of early intervention services. There is some concern, however, that policies on the issuance of citations as a means to leverage participation in early intervention efforts may inadvertently “widen the net.”
- The detention rate for Native American youth is significantly higher than the overall detention rate. There appears to have been little improvement between 1995 and 2000. The gap between the two rates appears to be closing somewhat in Burleigh County; however it is difficult to draw any conclusions due to the low number of youth detained in any given year.

- There does not seem to be a strong correlation between severity of offense and the decision to detain. Aggravating factors that may lead to detention for lesser offenses are not well understood. Although detention criteria are set in statute and court rule, a risk-based detention screening tool is not used to aid in detention decision-making.
- The juvenile court referral rate for Native American youth is three times higher than the overall referral rate in Burleigh County. There are no objective criteria or written procedures guiding referral decision-making.
- Questions were raised regarding the availability of indigent defense services. It was not clear that youth were being afforded reasonable access to counsel at all stages of the case process. Inadequate compensation and unrealistic expectations were cited as contributing factors.
- Burleigh County makes extensive use of diversion and informal adjustment. 75-80% of cases handled by the Juvenile Court Administration were disposed of by informal means through diversion or informal adjustment. Native American youth were a little less likely than non-Native American youth to have their cases disposed of by informal means.
- Of those youth handled through formal adjudication, the commitment rate of Native American youth to state custody is about seven times that of the overall committed population. Native American youth receive formal probation as a disposition at a lower rate than the overall population.
- Once in state custody, Native American youth remain in custody an average of two months longer than the overall committed population.
- Few predispositional investigations are completed prior to disposition. In about 75% of the cases, adjudication and disposition are completed in the same hearing. A formal risk and needs assessment process is not utilized by the juvenile court, although there has been some discussion about developing objective risk assessment tools.
- Placement rates of Native American youth in the Youth Correctional Center are significantly higher than the overall placement rate to the facility. Rates for subsequent placement of Native American youth have trended downward over the study period.
- There is speculation among local officials that over-representation by Native American youth at key stages of case handling is fueled, in part, by a lack of understanding of community expectations and the juvenile court process on the part of Native American youth and their families. No Native American resources are available in the system to advocate and support Native American youth and their families as they navigate through the juvenile court process.

- There are few culturally specific interventions or services available in the community for Native American youth. There are few Native Americans working in juvenile justice agencies or as service providers. Officials and service providers expressed a need for additional training to better understand the issues and needs confronting Native American youth and their families as well as effective intervention strategies.

Recommendations

Policy and Practice Recommendations

- The juvenile court should design and use an **objective screening instrument** to guide decisions about detention admissions. Such an instrument would provide an objective means to weigh the risk each youth taken into custody poses of failing to appear or committing a new crime. It could further serve to identify those youth who could be managed through less restrictive alternatives. The success of a comprehensive continuum of detention alternatives depends upon the proper identification of the degree of risk posed by the offender so he or she is matched to the appropriate level of custody. (statewide)
- The juvenile court should **develop written policies and procedures** to guide the process for determining whether cases should be forwarded to the state's attorney for formal adjudication or handled informally through diversion or informal adjustment. (Burleigh County)
- The state court administrator's office, together with defense counsel representatives and other concerned parties, should **review provisions made for indigent counsel** to assure that youth have the opportunity to consult with legal counsel prior to entering into a diversion or informal adjustment agreement. Access to adequate legal representation at other stages of involvement should be assured as well. (Burleigh County)
- The juvenile court should **develop risk and needs assessment instruments** for use following adjudication. Risk assessment instruments are used to decide the level of supervision or type of placement, while needs assessment instruments help determine the specific services a youth may require within the designated supervision/custody level. They provide a consistent and concise way for the court to consider relevant risk factors and needs of youth when make disposition decisions. (statewide)

Program and Service Recommendations

- **Establish a Native American juvenile court liaison.** A Native American juvenile court liaison would be available to Native American youth and their families through all stages of the case process from arrest through disposition. The liaison would be available to help youth and their families understand and navigate through the juvenile court process, facilitate access to services, and assure that culturally appropriate approaches are understood and considered during each stage of the case process. The liaison would also work with court officials and service providers to

promote increased understanding of the culture and unique needs of Native American youth and their families. (Burleigh County)

- Continue to make recruitment of Native American trackers, foster care providers, probation officers, caseworkers, institutional staff, and other juvenile justice workers a priority for the local system. (Burleigh County)
- **Develop and implement wraparound services for Native American youth that incorporate traditional healing practices and support systems with contemporary professional services.** These services should be available to youth on probation to serve as an alternative to commitment to state custody and secure placement. These services could build upon the foundation established by the Sacred Child Project to serve the local juvenile court. (Burleigh County)
- Explore ways to make use of elders and Native American role models residing in the community to serve as **mentors** for Native American youth. (Burleigh County)
- **Establish an ongoing forum** for service providers, Native American families and leaders, juvenile justice decision-makers, and juvenile justice workers to come together to enhance the system's understanding of issues facing Native American youth and families; promote respect for and understanding of culture; explore strength-based approaches that build upon traditional healing practices. (statewide)

Further Study Recommendations

- **Conduct a review of a sampling of cases of youth processed through the juvenile justice system from the point of arrest through final discharge.** The study should, at a minimum serve the following purposes:
 - ◆ Achieve a better understanding of the current rationale used in detention decision-making and how that impacts Native American youth vs. non-Native American youth taken into custody.
 - ◆ Assess the residency status of detained and committed youth to determine the extent to which crime committed by non-resident Native American youth contributes to minority over-representation in Burleigh County
 - ◆ Achieve a better understanding of the risk and need factors considered by the court in determining the need for placement of a youth in state custody and/or secure confinement vs. formal probation. The focus of the study should be on how the decision-making rationale impacts Native American youth.
 - ◆ Assess the administrative decision-making tools and processes used by DJS staff in the placement of committed youth in YCC.

The study may provide the foundation for development of an objective risk-based detention screening instrument and a formalized risk and needs assessment process for the courts. (Burleigh County or other selected jurisdictions)

- **Review citation policies and practices of the Bismarck Police Department to determine if there is inadvertent “net widening”.** The purpose of the study would be to determine if the issuance of a citation in lieu of a “warn and release” to leverage participation in early intervention services engages some youth in the system who would have been successful without further intervention. A focus should be on the impact of the practice on Native American youth.

APPENDIX A
SCHEDULE OF ON-SITE VISIT

**NORTH DAKOTA STATE ADVISORY GROUP
ASSESSMENT OF OVER-REPRESENTATION OF NATIVE AMERICAN YOUTH IN THE
JUVENILE JUSTICE SYSTEM**

**SEPTEMBER 4-6, 2001 SITE VISIT
Schedule of Activities**

Purpose of Site Visit:

- To assist the North Dakota State Advisory Group in updating its examination and assessment of the juvenile justice system in relation to the representation of Native American youth. Specifically, the consultant will conduct a general assessment of trends, policies and practices that impact the representation of Native American youth in the juvenile justice system in Burleigh County and provide recommendations to the SAG on reducing over-representation.

Desired Results:

- General planning framework and methodology for completion of the assessment
- Plan for data collection and analysis; Reach consensus on final report format and due date
- Understanding of the JJ system case flow process and, in particular, the policies, practices and philosophy of key decision-makers as they relate to Native American youth
- Agreement from key decision-makers to respond to reasonable follow-up e-mail, phone, or mail requests for data necessary to complete the assessment

Tuesday, September 4th

Time	Activity	Purpose	Persons Involved
8:30 AM	Entrance Meeting	Review and confirm schedule; confirm meeting logistics	Mark Martin, Terry Traynor, Lisa Jahner, Al Lick
9:00 AM	Meeting with DJS Director, JJ Specialist and staff	Review purpose of technical assistance and site visit; review desired results; secure back ground information; discuss assessment scope and methodology; secure information on data sources and availability	Mark Martin, Terry Traynor, Lisa Jahner, Al Lick
11:00 AM	Meeting with Burleigh County State's Attorney	Get information regarding the philosophy, policies, and practices of the prosecutor's office regarding the handling of juvenile cases; gather information on availability and utilization of diversion programs by Native American youth; get prosecutor's perspective as to the reasons for over-representation of Native American youth in the JJ system	Mark Martin, Lisa, Brandi Sasse

1:30 PM	Meeting with Juvenile Court Director and Probation representative	Get information regarding the philosophy, policies and practices of the juvenile court and probation; gather information on existing programs and resources available and their utilization by Native American youth; determine availability and access to juvenile court and probation data; assess key trends and case factors as they relate to juvenile court decision-making relating to Native American youth; get specific information on probation revocation practices	Mark Martin; Juvenile Court Director, Probation staff, Terry and Lisa
4:00 PM	Meeting with Director of Sacred Child Project	Gather information regarding programs and services available in the community for Native American youth involved with the JJ system	Mark Martin, Lisa, Terry, Deb Paint
Wednesday, September 5th			
Time	Activity	Purpose	Persons Involved
9:30 AM	Meeting with YCC Director of Resident Care	Get information regarding the facility's philosophy, policies and practices that may affect admission, length of stay, or care of Native American youth; determine availability and access to detention, commitment, and recidivism data; get Director's perspective on reasons for over-representation of Native American youth in the JJ system	Mark Martin, Ron Crouse, Terry and Lisa
10:30 AM	Meeting with YCC Director of Treatment	Gather information on existing programs and treatment services provided in the facility and their utilization by Native American youth; get Director's perspective on reasons for over-representation of Native American youth in the JJ system; get information concerning effectiveness institutional and community programming for Native American youth	Mark Martin, Ross Munz., Terry and Lisa

While at YCC	Other possible meetings at YCC: Meet with several Native American youth at YCC; facility tour	Get information about their experiences with the JJ system and youths' impressions about what factors led to their current situation	Mark Martin
12:15 PM	Luncheon meeting with BCSS, Foster Care Supervisor	Get information about out-of-home care resources available to Native American youth and utilization of foster care and group care by Native American youth; get information about agency policies and practices regarding out-of-home placement of delinquent and status offending youth	Mark Martin, Lisa, Terry, Darlene Hill
2:00 PM	Meeting with Program Director of Charles Hall Youth Services	Gather information regarding programs and services available in the community for Native American youth involved with the JJ system	Mark Martin, Lisa, Terry, Angela Schelske
3:30 PM	Meet with DJS Regional Manager and case managers	Get information on DJS policies and practices in the management of youth in community supervision with a focus on Native American youth; gather information on existing programs and treatment services in the community and their utilization by Native American youth; get staff impressions on gaps in services for Native American youth; get staff perspective on reasons for over-representation; assess parole revocation practices as they impact Native American youth	Mark Martin, DJS Regional Manager, case managers, Terry and Lisa
4:30 PM	Meeting with Defense Counsel	Get information regarding legal and related advocacy services available to Native American youth involved with the JJ system; get defense counsel perspective on reasons for over-representation of Native American youth in the JJ system	Mark Martin, Lisa, Terry, Anne Summers

Thursday, September 6th			
Time	Activity	Purpose	Persons Involved
10:15 AM	Meeting with Director of Casey Family Program	Gather information regarding programs and services available in the community for Native American youth involved with the JJ system	Mark Martin, Terry, Lisa, Sandy Noble
1:30 PM	Meeting Bismarck Police Youth Bureau	Gather information on law enforcement policies, practices, and philosophy in the handling of youth coming into contact with the JJ system; determine availability and access to data; get law enforcement perspective on the reasons for over-representation of Native American youth;	Mark Martin; Pat Serna; Bismarck Police Department Youth Bureau, Lisa
3:30 PM	Exit Meeting	Discuss preliminary findings and impressions based upon the site visit meetings; identify gaps in information needed for the assessment; finalize follow-up activities necessary to complete the assessment and final report; provide feedback to the consultant regarding the effectiveness of the site visit in accomplishing desired outcomes	Mark Martin, Terry and Lisa, Al Lick

APPENDIX B
EVALAUTION QUESTIONS

NORTH DAKOTA STATE ADVISORY GROUP

**ASSESSMENT OF THE REPRESENTATION OF NATIVE AMERICAN YOUTH
IN THE BURLEIGH COUNTY JUVENILE JUSTICE SYSTEM**

Evaluation Questions	Information Sources	Data Collection Methods
Arrest		
What options are available to law enforcement following the report or observation of a violation involving a youth? (process and program)		
What factors does law enforcement consider in determining which option to pursue?		
What percent of law enforcement contacts with Native American youth result in arrest compared to all youth arrests?		
How has this percentage changed over the past 5 years?		
What percent of youth arrested in 2000 were Native American? <ul style="list-style-type: none"> - status offenses - delinquent offenses 		
How has this percentage changed over the past 5 years?		
What is the breakdown of alleged offenses involving Native American youth compared to alleged offenses of all arrested youth.		
What are law enforcement policies regarding the handling of non-resident youth taken into custody?		
Are law enforcement contacts with non-resident Native American youth more or less likely to result in an arrest than contacts with non-resident non-Native American youth? If so, why and to what extent?		
Are there any special enforcement initiatives associated with particular seasonal events that might result in a disproportionate number of Native American youth arrests? (e.g. pow wows, fairs, etc.)		
Have there been any changes in number of street officers, enforcement resources, policies, philosophy, priorities, etc. in the last 5 years		

NORTH DAKOTA STATE ADVISORY GROUP

**ASSESSMENT OF THE REPRESENTATION OF NATIVE AMERICAN YOUTH
IN THE BURLEIGH COUNTY JUVENILE JUSTICE SYSTEM**

Evaluation Questions	Information Sources	Data Collection Methods
that may help explain changes in the percentages of Native American youth arrests?		
If law enforcement requests a warrant for a youth's arrest, what options are available to the court?		
Are warrant requests involving Native American youth more or less likely to result in an arrest and detention compared to all warrant requests? If so, why and to what extent?		
Intake		
Who is responsible for intake screening when a youth has been taken into custody?		
Are there objective detention criteria that must be followed in making a decision regarding eligibility for detention?		
Is a detention screening instrument used to aid in the decision-making regarding eligibility for detention? Any evidence of racial bias in the instrument?		
What pre-adjudication options are available for youth taken into custody other than secure detention?		
What percent of Native American youth receiving intake screening are securely detained compared to all youth who receive intake screening?		
How has this changed over the past 5 years?		
What percent of Native American youth remain in detention following a detention hearing compared to all detained youth?		
What percent of Native American youth are represented by defense counsel at detention hearings compared to all youth?		
What less restrictive options are available to the court for supervision of youth during case processing? To what extent are these utilized for detained Native American youth?		

NORTH DAKOTA STATE ADVISORY GROUP

**ASSESSMENT OF THE REPRESENTATION OF NATIVE AMERICAN YOUTH
IN THE BURLEIGH COUNTY JUVENILE JUSTICE SYSTEM**

Evaluation Questions	Information Sources	Data Collection Methods
Case Filing		
What options are available to the prosecuting attorney in processing juvenile cases? (process and program)		
What percent of cases involving Native American youth are diverted from formal processing compared to all cases reviewed by the prosecutor?		
What factors does the prosecutor consider in determining whether or not to file a petition or to divert the case from formal processing? Do any of these factors have an adverse impact on Native American youth in particular?		
How have these percentages changed over the past 5 years?		
Have there been any changes in prosecutor personnel, policies, philosophy, resources, etc. that may affect decisions or efficiency in the handling of juvenile cases, particularly cases involving Native American youth?		
Adjudication		
What percent of cases involving Native American youth are transferred to adult court compared to all cases filed in juvenile court?		
In what percent of cases involving Native American youth does the court find the youth to be delinquent or a status offender compared to all adjudications?		
What resources are available to youth and their families to help them understand and navigate the juvenile court process? Are they culturally sensitive?		
Disposition		
What options are available to the juvenile court at disposition?		
To what extent does the court order PDI's and/or evaluations prior to the disposition hearing?		

NORTH DAKOTA STATE ADVISORY GROUP

**ASSESSMENT OF THE REPRESENTATION OF NATIVE AMERICAN YOUTH
IN THE BURLEIGH COUNTY JUVENILE JUSTICE SYSTEM**

Evaluation Questions	Information Sources	Data Collection Methods
In what percent of cases do PDI's or evaluations recommend secure custody for Native American youth compared to all cases?		
What factors do probation officers or evaluators consider in making recommendations for placement and supervision at disposition?		
What percent of Native American youth are committed to secure custody at disposition compared to all dispositions?		
What factors does the court consider in determining appropriate disposition?		
Have there been any changes in judges, policies, philosophy, or resources within the last 5 years that may affect decision-making regarding Native American youth by the courts?		
Treatment/Supervision		
What is the breakdown of adjudicated Native American youth in secure custody, community programs, or on probation compared to non-Native American youth?		
How has this changed within the last 5 years?		
Is a risk assessment instrument used as a tool to determine placement and level of restrictiveness for youth placed in state custody? Any evidence of racial bias in the instrument?		
What percent of Native American youth on probation have their Probation revoked compared to all youth on Probation?		
What percent of the probation revocations of Native American youth result in placement in secure custody compared to all revocations?		
What percent of probation revocations of Native American youth are for technical violations compared to all revocations?		

NORTH DAKOTA STATE ADVISORY GROUP

**ASSESSMENT OF THE REPRESENTATION OF NATIVE AMERICAN YOUTH
IN THE BURLEIGH COUNTY JUVENILE JUSTICE SYSTEM**

Evaluation Questions	Information Sources	Data Collection Methods
What percent of Native American youth on parole have their parole revoked compared to all revocations?		
What percent of the parole revocations of Native American youth result in placement in secure custody compared all revocations?		
What percent of parole revocations of Native American youth are for technical violations compared to all revocations?		
How have probation/parole revocation practices relating to Native American youth changed in the last 5 years?		
What percent of Native American youth successfully complete mandated treatment programs compared to all adjudicated youth?		
Are treatment programs available that are tailored to Native American culture and traditional approaches?		
Is family involvement in rehabilitative efforts supported and valued?		
What is the percent of Native American youth who recidivate compared to all adjudicated youth?		
General		
How has the Native American youth population in the community changed over the past 5 years?		
What are the five-year trends of key indices relating to Native American youth? <ul style="list-style-type: none"> ■ Arrests ■ Detention ■ Transfers ■ Secure confinement 		
What are the explanations for these trends?		
What intervention programs designed to address over-representation have been put in place at each stage of processing?		
Have they been effective?		

NORTH DAKOTA STATE ADVISORY GROUP

**ASSESSMENT OF THE REPRESENTATION OF NATIVE AMERICAN YOUTH
IN THE BURLEIGH COUNTY JUVENILE JUSTICE SYSTEM**

Evaluation Questions	Information Sources	Data Collection Methods
Have socio-economic conditions for Native American youth improved or worsened over the past 5 years?		
What is the prevalence of substance abuse and mental health problems among Native American youth offenders compared to all offenders?		
Are Native American youth experiencing success in school? What is the drop-out rate of Native American youth compared to all youth? What are the schools and community doing about it?		
Are the current and future employment needs of Native American youth being addressed in WIA initiatives and other community resources.		
Do Native American youth engage in community activities and programs? Are programs responsive to culture and needs of Native American youth?		